

STUDY SESSION NOTES

CITY COUNCIL MEETING CITY OF WHEAT RIDGE, COLORADO

7500 W. 29th Ave.
Wheat Ridge CO

August 5, 2013

6:30 p.m.

Present: Mayor DiTullio, Davis Reinhart, Bud Starker, Joyce Jay, Kristi Davis, Mike Stites, George Pond, Tracy Langworthy, Joseph DeMott

Also present: City Manager, Patrick Goff; City Attorney, Jerry Dahl; City Clerk, Janelle Shaver; Treasurer, Larry Schulz; Police Chief, Daniel Brennan; Acting Public Works Director, Steve Nguyen; from the Police Department Lt. Wade Hammond, Commander Jim Lorentz, and CSO Mary McKenna; Attorney, Chris Price; interested citizens

PUBLIC COMMENT ON AGENDA ITEMS No one spoke

APPROVAL OF AGENDA

1. Staff Report(s)

a) East Wheat Ridge Neighborhood Project ~ Chief Brennan

Chief Brennan went through the history of the East Wheat Ridge Neighborhood Project and detailed some progress. Community meetings were held and a Dumpster Days event was held. The next step will be to have more neighborhood meetings and continue to connect with the community to identify specific ways to help with crime, code violations, etc.

b) Nuisance and Code Violations Enforcement Activity~ Commander Lorentz

Chief Brennan gave some history on nuisance code enforcement. 2008 began a serious change in how these violations are handled. It changed from a court process into an administrative process. He outlined the administrative process which has sped up the process considerably. People are getting the message. In 2008 we also started hiring seasonal CSO's. 70% of the calls he gets are about nuisance code violations.

Division Chief Lorentz gave added information beyond the staff report. The compliance rate is doing well with the 10 day warning system. 85% of the time people generally clean it up in the 10 days to avoid a \$150 fine.

The citation schedule is doing its job. The 1st citation (\$150) is producing 95% compliance. The 2nd citation (\$250) and 3rd citation (\$500) result in 99% compliance. Very few violations result in an administrative hearing. In July this year we had 871 code calls, so they're busy. If council members become aware of properties that need attention he urged them to just call the CSO number directly so they can get right on it. In 2012 \$47,120 was collected in Fines and \$17,476 in Abatement Fees.

Chief Brennan said the department is beginning to assemble data. They've also begun to soften the approach in some cases involving seniors because they often don't have the money or resources. The Department has reached out to volunteer groups such as Volunteers of America and Crossroads Church to provide assistance for those who need help with compliance. They're also now trying to decide if adding more temporary seasonal employees will help. The workload increased in 2012 when the Department took over property inspection duties that were traditionally under Community Development, so they are being thoughtful about what can be done strategically to help these areas. He knows that sometimes it looks like the Police are more focused in East Wheat Ridge, but they are indeed focused in other areas with community policing projects -- one in the I-70/Kipling area.

Additional item from Chief Brennan:

Tax documentation from Rural Metro Fire ~ Chief Brennan

The Chief provided a handout for Council. He reported that Rural Metro Fire is in the process of financial restructuring. They have filed for Chapter 11 bankruptcy now, which will free up capital and allow them to renegotiate unprofitable contracts. The restructuring should be done by the 4th quarter of 2013. It appears to be a pretty straightforward process to address debt and interest issue they have. No districts have dropped Rural Metro as a provider and we expect the same level of service. We do monthly EMS updates with all of the fire departments that serve Wheat Ridge, and they will monitor response times, etc. If the level of service is impacted he will come back to the Council. At this point he's not overly concerned.

- c) Reconsideration of Randall Park acquisition ~ Patrick Goff
Patrick indicated that the owner is still interested in selling, but would like to wait 6 months due to financial considerations. He will get back to the City when he is ready. Joyce Manwaring has advised that grants are still available.

Discussion focused on whether or not to buy the property and finish the park. Opinions varied. A decision will come later.

2. Implementation of Amendment 64 ~ Chris Price/Jerry Dahl
(Legalization of Retail Marijuana)

The City currently has a moratorium in place that will expire November 1. Council needs to make certain policy decisions concerning how to regulate retail marijuana within the City.

We have currently 4 existing medical marijuana (MM) locations in Wheat Ridge. A model of vertical integration is in place - i.e. if you grow marijuana in the City you have to have a retail outlet, and it can only be grown immediately adjacent to the retail outlet. We do not allow standalone grow operations. They are allowed in C-1 (Commercial) and I-E (Industrial) zones, can't be within 1000 ft. of a school, and there is a ¾ mile buffer around each outlet.

The General Assembly recently adopted HB 13-1317 setting forth how the state will implement Amendment 64. The regulations are very similar to the regulations for medical marijuana – with two distinct differences:

1. Medical Marijuana (MM) outlets have to grow 70% of their own product, but the coming retail marijuana establishments (RME's) don't. (Standalone cultivation centers for retail product will be allowed.)
2. Mandatory testing will now be required to identify potency of the marijuana and infused products. (There are now potency regulations for product sold at RME's.)

Four types of retail marijuana establishments (RME's) will be licensed at the state level:

- **Retail Marijuana Store:** license for a retail marijuana business
- **Retail Marijuana Cultivation Facility:** license to grow and cultivate marijuana
- **Retail Marijuana Products Manufacturer:** license to manufacture a product containing or infused with marijuana
- **Retail Marijuana Testing Facility:** license for a business that will test the THC levels of products and marijuana sold at retail

The City can mirror what we now have for MM and apply it to RM, or we can ban it altogether, as some cities and towns have already done. Arvada and Lakewood have moratoriums in place. It is expected that Mountain View, Edgewater and Denver will all allow retail sales and colocation. Jefferson County has adopted a ban that will expire in February, 2015.

Beginning on October 1 existing MM outlets can apply for a RME license. These centers, along with their inventory, can convert (in whole or in part) to an RME.

Council discussion with staff input followed and policy questions were addressed:

1. Ban it? Only Joyce Jay and Tracy Langworthy supported banning it.

2. Which type of RME's will be allowed?

- Chief Brennan commented on MM from a law enforcement perspective:

Vertical integration is easier to track.

The introduction of medical marijuana has resulted in increased calls about:

- ✓ illegal growing in residential areas,
 - ✓ increased electrical code violations,
 - ✓ increased arrests for possession (especially high school, middle school, and elementary school arrests, which are up 50%),
 - ✓ increase traffic accidents statewide with serious bodily injuries and fatalities due to marijuana,
 - ✓ increased calls for service at the Post Office for mail violations.
- From a zoning perspective, there are no existing buffers which would prevent a products manufacturer. Infused products are not subject to buffer zones. It is a coincidence that current infused product outlets are collocated with MM sales outlets and grow operations. Licenses to manufacture infused products could be anywhere.
 - A testing facility is primarily a laboratory that handles small quantities. It was not known if the City could restrict the amount of product allowed at a testing facility. Mr. Price indicated there are detailed state regulations for that.
 - Current MM regulations require grow operations to be collocated with either retail outlets or infused product manufacturers and must be contiguous. This is an example of regulation that supports vertical integration.
 - Standalone grow operations? There was discussion. Mr. Starker said he is not in favor of allowing grow operations in our city that would distribute their product in other locations. No decision was made on this specific issue.
 - Council generally supported the vertical integration model for the first three types of facilities.
 - Council agreed testing should be allowed in the same zones, but not required to be collocated.

3. In what zone districts will RME's be allowed? Council agreed it should be the same zones as MM: C-1 and I-E.

4. Will the City adopt buffer zones for RME's or limit the number permitted within the City? Council supported applying current MM criteria/regulations to RME's.

5. Will the City allow an RME to collocate with an existing MM licensee? All Councilmember supported collocation of MM outlets and RME's. It was noted that anyone with a MM card can go into a MM outlet and purchase marijuana – regardless of age. (Under 18 must be accompanied by a parent.) The RME's will only allow people age 21 or older. RME's with collocated, age-restricted MM sales are required to have separate entrances, spaces and inventory for their MM operation. (An outlet could elect to sell MM only to persons 21 or over, thereby eliminating the need for a separate entrance, but the inventory must remain separate.)

6. Will the City adopt specific licensing requirements for RME's? Does the City want to require a special city license? Currently we have an administrative process that is handled through the City sales tax office. There was no suggestion to add further regulations. The state collects all licensing fees and splits them with the City. For MM we receive \$250 per license. We could add an operations fee, but would have to justify it.
7. Time, place, & manner of sale? There was support to adopt all the same regulations the City currently uses for MM.
8. Who will be named as the "local licensing authority"? Agreement to keep it in the sales tax office.
9. What are the appropriate amount of operating fees the City may charge and collect? We currently charge MM centers a \$1000 licensing fee. There was consensus to have an operating fee and to have the police department bring back a suggested amount and justification for it based on costs for administration and enforcement of RME's.
10. Whether to allow retail marijuana businesses to exist if the state defaults on its responsibilities under Amendment 64? It was agreed that if the state doesn't act we can enact an emergency moratorium and take the matter under consideration at that time.

Other issues?

How will we define "open and public use"? Amendment 64 does not legalize open and public use of marijuana and the General Assembly did not address this issue. Because recreational marijuana is permitted for adults, Council will need to decide if this activity should be prohibited in various public places. ~ From discussion there was agreement to accept the proposed definitions of "open and public", "openly" and "publicly".

Whether to limit personal growing within a residence? Council agreed on provisions based on recommendations from the Police Department and City Attorney:

- To restrict growing operations to 25% of the floor area of the dwelling unit
- To require that cultivators live on the premises where marijuana is being grown
- To permit home cultivation only within the primary residence structure of the cultivator

Whether to ban other business models not contemplated in Amendment 64? (E.g. mobile delivery trucks, cooperative growing clubs, smoke clubs, storage, etc.) Council agreed that any marijuana-related business not expressly permitted should be banned.

3. Neighborhood Traffic Calming/Signage Program ~ Steve Nguyen

Patrick Goff outlined the packet material which addresses neighborhood monument signs, temporary speed bumps and a neighborhood traffic control program. He explained some of the attachments in the packet which included sample illustrations of neighborhood monuments and minor entryway monuments, maps for potential locations and costs estimates.

Steve Nguyen answered Council questions.

There was considerable discussion which showed support for this program. Beyond traffic calming there is a desire by some for neighborhood identification. Councilmember Langworthy expressed concern that the 22 suggested locations do not include Miller Street north of 44th (which has two schools on it) or Xenon Street off 44th – both of which have large amounts of cut-through traffic. ~ It was pointed out that due to funding this program would be spread out over several years. ~ Another issue was that the project be spread over the City equitably and that neighbors be involved. ~

Councilmember Reinhart asked for consensus to select a number of critical locations (5) and have designs back to Council for approval in 60 days. Discussion indicated we aren't ready for that yet.

Councilmember Reinhart asked for consensus to have staff bring forward a process for Council which includes professional signage examples and a process for neighborhood outreach to get neighborhood approval. No vote was taken on the consensus.

Councilmember Starker asked for consensus to have staff bring back a plan to spend the \$100,000 that's budgeted this year to implement a traffic calming and neighborhood monument sign program that is consistent throughout the City in each district, leaving options open for what type of traffic calming to use, and proposing a process for neighborhood outreach. This consensus was supported.

4. Sales and Use Tax Ballot Initiative Update ~ Patrick Goff/Jerry Dahl

Mr. Goff explained the changes in the ballot wording that Council asked staff to make. He noted that

- \$6 million was changed to \$6.3 million at the recommendation of Mr. Dahl so we don't get in a rebate situation.
- 1% was moved to the top paragraph.
- The bullet points were changed to reflect Council's requests.

Mr. Dahl recommended removing the word "purchase" (Paragraph 1) as this increase will apply to use tax as well as sales tax. He offered guidance on other suggestions for the TABOR-related wording that Council questioned or suggested. He noted the middle section that sells the issue is up to Council.

Councilmembers offered suggestions during wordsmithing discussion. At Mr. Starker's suggestion, the words "safety" and "construction" were added as better sales tools. Mrs. Jay wanted to add the word "flood" or "to help mitigate flooding" somewhere. Discussion produced agreement to leave it alone and not add that.

There was discussion about eliminating bullet 3, which states: "Resource improvements for more efficient government operations and public safety". Bullets 1 and 2 say the revenues will be used for roads, bridges, drainage and other capital projects; the third bullet was added for transparency to let the voters know that this money will eventually be spent on other things.

Councilmember Reinhart asked for consensus to eliminate bullet 3. A tie resulted in the Mayor voting to eliminate it.

Mr. Goff asked if Council wanted to do this by resolution (one public discussion) or by ordinance (two opportunities for discussion on the dais). Councilmember Davis reminded Council they need to get together as, or form, a group to come up with a marketing plan. It was agreed to do an ordinance, with 1st reading on Aug. 12.

5. Elected Official Report(s)

Tracy Langworthy noted that Healing Waters does a Food Fair that gives out fresh fruits and vegetables to families with low or moderate income. They need help this Friday. It starts at 7:30AM and lasts until about 11:00. You wouldn't have to stay the whole time, but any help you can offer would be appreciated.

Clerk Shaver announced that nomination petitions for the upcoming municipal election will be available for pick-up tomorrow at 8 AM in the Clerk's Office. She also reminded everyone that municipal elections are non-partisan and she put it to the candidates' individual integrity to abide by that.

Adjourned at 10:00pm



Janelle Shaver, City Clerk